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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,377	10/19/2001	Dusty L. Lutz	7594.10	9236

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EXAMINER
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SHAPIRO, JEFFERY A

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/038,377

Applicant(s)

LUTZ ET AL.

Examiner

Jeffrey A. Shapiro

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WJW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 21-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner. .  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dumont (US 5,437,346) in view of Schneider (US 5,083,638). Dumont discloses the following.

As described in Claims 1, 30, 35, 39 and 45-59;

- a. detecting and recording a weight decrease resulting from removal of one or more items from the post-scan area of the self-service checkout terminal;
- b. detecting a weight increase resulting from placement of one or more items in the post-scan area of the self-service checkout terminal;
- c. generating a match signal if the weight increase matches the weight decrease;

(See col. 6, lines 10-38)

As described in Claim 22;

- d. generating an improper-use signal if the weight increase exceeds the weight decrease;

(Note that it would have been obvious to generate an improper use signal as col. 6, lines 10-38 describes an "indication" is generated if illegal substitution is made.)

As described in Claim 23;

- e. updating an electronic log if the improper-use signal is generated;
- f. generating an intervention signal if the updated log satisfies a threshold condition; (See col. 6, lines 10-38.)

As described in Claim 24;

- g. detecting a further weight increase resulting from placement of one or more additional items in the post-scan area;
- h. generating a match signal if the total of weight increases matches the weight decrease; (See col. 6, lines 10-38.)

As described in Claim 25;

- i. generating an improper use signal if the total of weight increases does not match the weight decrease; (See col. 6, lines 10-38.)

As described in Claims 26 and 36-38;

- k. updating an electronic log if the improper use control signal is generated;
- l. generating an intervention signal if the updated log satisfies a threshold condition; (See col. 6, lines 10-38.)

As described in Claim 27-29;

- m. generating an improper use signal if a subsequent item is entered into the terminal before the weight of all removed items is restored to the post-scan area;
- n. updating an electronic log in response to generation of the improper use signal;
- o. generating an intervention signal if the updated log satisfies a threshold condition; (See col. 6, lines 10-38.)

Dumont does not expressly disclose, but Schneider discloses the following.

As described in Claim 31;

- p. a video camera (18, 31 and 32) is used to monitor the checkout counter;

As described in Claims 32-34 and 40-44;

- q. an instructional message is communicated via a display monitor if the detected weight increase does not match the recorded weight decrease or the detected weight does not match the recorded weight decrease); (See figure 3, voice digitizer (121), video terminal (53) and speaker system (126).)

Both Dumont and Schneider are considered to be analogous art because they both concern self-check out apparatus'.

At the time of the invention, it would have been obvious to one ordinarily skilled in the art to have added a video camera to and communicate instructional messages by a display monitor or by voice or other functionally equivalent means in the self-checkout counter of Dumont.

The suggestion/motivation would have been to surveil a customer using the checkout counter and to communicate instructions and system status to the customer/operator of the checkout counter. See col. 7, lines 50-60 and col. 11, lines 24-36.

Therefore, it would have been obvious to obtain the apparatus as described in Claims 21-59.

#### ***Allowable Subject Matter***

3. Claims 1-20 are allowed. See reasons for allowance dated 6/2/99 in application 09/071,024, now patent 5,967,264.

#### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Humble '018 and Dingfelder '860 are cited as self-checkout systems that verify the weight of bagged items.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Shapiro whose telephone number is

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(703)308-3423. The examiner can normally be reached on Monday-Friday, 9:00 AM-5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703)306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey A. Shapiro  
Examiner  
Art Unit 3653

June 27, 2004



DONALD P. WALSH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600